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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION NO.309 of 1997.

(CORAM : J.M.Panchal,J.)

12-3-97.

O R A L O R D E R ;

Rule.

Mr.N.D. Gohil, the learned Additional Government Pleader waives service of notice of rule on behalf of the respondent. At the request of the parties, the petition is heard today.

By means of filing this petition under Article 226 of the Constitution of India, the petitioners have prayed to enlarge them on anticipatory bail in connection with Cr.No.8/97, registered with Vadgam Police Station for the offences punishable under Sections 323, 504, 506, 352 of IPC and under Section 3 (i) (X) and 3 (2) (V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

In view of the provisions of Section 18 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, prayer for anticipatory bail cannot be granted. However,I am of the view that having regard to the facts of the case, interest would be served if the petitioners are directed to remain present before the learned Special Judge, Banaskantha at Palanpur on March 17, 1997 and the learned Judge is directed to dispose of the application for bail which may be submitted by the petitioners under Section 439 of the Code of Criminal Procedure, 1973 as early as possible on merits.

Under the circumstances, the petitioners are directed to remain present before the learned Special Judge, Banaskantha at Palanpur on March 17, 1997. The petitioners shall be entitled to file application for bail under Section 439 of the Code of Criminal Procedure, 1973. The application for bail which may be submitted by the petitioners shall be decided by the learned Special Judge on merits and in accordance with law without being influenced by the order passed by this court in this petition. For the purpose of Section 439 of Code of Criminal Procedure, 1973, the petitioners shall be deemed to be in judicial custody and till the application which may be submitted by the petitioners is decided, the petitioners shall not be placed in actual custody. The application for bail which may be submitted by the petitioners shall be disposed of by the learned Judge as early as possible and without any avoidable delay. Rule is made absolute as indicated hereinabove. D.S. permitted.

Dt.12-3-97. (J.M. Panchal, J.)